

7/27/07

CHARTER REFORM

Balanced Budget

Accountability and Transparency

Section 301: Accountability for Balanced Budget

(a) The Mayor and City Council shall enact and maintain a balanced budget throughout the fiscal year. The City Auditor shall certify in writing that the budget as proposed by the Mayor and adopted by the Council is in fact balanced and is based on accurate revenue, cost and financial information, and proper accounting practices. The Council may not adopt the annual appropriations ordinance until such time as the City Auditor has certified the budget as adopted, or amended, is balanced.

(b) Each quarter of the fiscal year the City Auditor shall issue a certified statement to the Mayor and City Council reporting the current and forecasted budget for each department and appropriations account, and shall identify any current or forecasted budget deficit for such department and appropriations account.

(c) If any quarterly certified report identifies a current or forecasted deficit in a department or appropriation account, the Mayor and City Council shall, within 45 days of the receipt of that report, identify budget reductions or additional revenues sufficient to eliminate that deficit and achieve a balanced budget, and shall amend the annual appropriations ordinance accordingly.

(d) If the City Auditor determines the actions taken by the Mayor and City Council are not sufficient to eliminate the deficit and maintain a balanced budget, the Mayor shall, notwithstanding the annual salary ordinance with respect to compensation not already earned, reduce or reserve on a proportionate basis budgets for each department in any city fund in deficit, except accounts for public safety functions, until such time as the City Auditor determines that anticipated revenues for the remainder of the fiscal year are sufficient to support the level of expenditure anticipated for the remainder of the fiscal year.

Section 302: Transparency in the Budget

The Mayor shall provide a quarterly report on any increases, reductions or reservations he has made in individual appropriation accounts. Whenever the Mayor makes a net increase, reduction or reservation in the total budgeted amount for a city department, he shall notify the City Council in writing within 10 days. No net increase, reduction, or reservation in the total budgets amount for a city department shall take effect until 20 days after notification is received by the City Council. Subject to a Mayoral veto, the City Council may reduce or restore funding for a specific appropriation account in any city fund provided that the City Auditor certifies that sufficient revenues are identified and made available by the City Council to support a restoration.

CHARTER REFORM

Rainy Day Budget Reserve Fund

Section 303. Budget Reserve Fund

(a) In the General Fund, there shall be a Rainy Day Reserve (the Reserve), which may also be known as a budget stabilization and emergency reserve.

(b) Beginning in Fiscal Year 2012, if the City Auditor projects that total General Fund revenues for an upcoming fiscal year will exceed total General Fund revenues for the current fiscal year by more than five percent, the City Council shall appropriate as a baseline increase the anticipated General Fund revenues in excess of that five percent growth ("the excess revenues") as follows:

(1) 50 percent of the excess revenues to the Reserve, unless the Reserve's value is equal or greater than 10% of the General Fund in which case these revenues shall be allocated to the early retirement of City debt;

(2) 50 percent of the excess revenues equally split between (i) transportation improvements and street repairs, and (ii) funding for public safety facilities and equipment; and,

(c) If the City Auditor projects that total General Fund revenues for the upcoming fiscal year will be less than the current fiscal year's total General Fund revenues, the City Council may appropriate funds from the Reserve, but no more than the shortfall in total General Fund revenues, to make up that shortfall. The City Council shall not appropriate funds from the Reserve until such time that the balance in the Reserve exceeds 6 percent of the General Fund expenditures for the current fiscal year. Except in cases of emergency as defined in (h) of this section, the Council shall not appropriate funds such that the balance in the Reserve falls below 6 percent of the General Fund expenditures for the fiscal year.

(d) The City Auditor shall calculate any shortfall for the upcoming fiscal year by subtracting the total projected General Fund revenues for the upcoming fiscal year from the total projected General Fund revenues for the current year, provided that any funds appropriated in the current year from the Reserve shall not be included in making this calculation.

(e) If the City Council made authorized appropriations from the Reserve in the current fiscal year and in the immediately preceding fiscal year, the City is not required to allocate any anticipated excess revenues to the Reserve, or to transportation improvements, street repairs, and acquisition of public safety facilities and equipment.

(f) If the City Council or the voters take an action that changes the amount of total General Fund revenues in any material manner, such as reducing or raising a tax or eliminating or imposing a new fee, the revenue changes caused by that action shall be counted as part of the triggers for allocations to or withdrawals from the Reserve during the year or years in which the action is first implemented.

(g) In conjunction with the year-end close of the budget, the City Auditor shall reconcile the revenue projections triggering any budgeted allocations to or withdrawals from the Reserve with actual revenue results, as stated in the City's independent annual audit for the years in question, and rebalance the Reserve, the capital and other one-time expenditures allocation, and the general purpose allocation accordingly.

(h) Additional appropriations from the Reserve may be made only in the event of a public emergency when it shall be determined by the affirmative vote of at least two-thirds of the members elected to the Council that such expenditures are necessary in order to insure the safety and lives and property of the City or its inhabitants.

(i) The General Reserve Fund created in Section 91 of this Charter shall be renamed the "Cash Management Fund." Nothing in this section shall be interpreted to limit the use of Cash Management Fund to allow the City to operate on a cash basis, provided that all disbursements from the Cash Management Fund are repaid during the fiscal year in which they are made upon actual collection of taxes during that fiscal year

(j) On the effective date of this section, the City Auditor shall transfer any unappropriated funds in the City's General Fund Reserve as defined by current City law into the Reserve established by this section.

CHARTER REFORM

Performance Budgeting and Audits

Section 305: Performance Budgeting and Audits

(a) Each City department, agency, board and commission shall develop a strategic plan in consultation with citizens, the Mayor and the Council. Such a plan shall define the mission, goals and strategies of the department, agency, board or commission. These strategic plans are to be updated at least every four years.

(b) With submission of the city budget each year, each City department, agency, board and commission shall also submit an annual performance plan for the following fiscal year containing the following:

(1) Performance measures. Performance measures shall provide information to City officials and the public on the quantity (output) and quality (outcome) of services provided, citizen perceptions of service levels, and the extent a service has an impact on the needs for which it was created.

(2) Cost efficiency measures and benchmarks. If requested by the City Council or City Auditor, a City department, agency, board and commission shall track and report costs for a particular service on a full cost-per-unit service basis. Cost-per-unit service calculations shall reflect direct, indirect and overhead costs associated with all component activities carried out in the course of providing a service.

(3) Reports on performance and cost efficiency achievements. The performance plan shall report on actual results achieved during the previous fiscal year, and shall forecast results for the current fiscal year.

(4) Targets for performance and cost efficiency achievements. The performance plan shall establish clear targets for performance in the following year for performance measures and cost efficiency measures and benchmarks.

(5) Any other performance or financial information that the Mayor, City Council or City Auditor may deem necessary to fully understand the relationship between resource levels requested in the budget and specific performance goals and targets.

(c) The City Performance Audit Unit in the City Auditor's office shall conduct periodic, comprehensive performance audits of city departments, boards, commissions, services, and activities. The City Auditor shall have discretion to select, on a rotating basis, departments, boards, commissions, services, and activities for audit, provided that at least 20 percent of all City expenditures shall be covered under a performance audit each year, and each expenditure shall be covered under a performance audit at least once every 5 years.

(d) In conducting performance audits of each department, board, commission, service or activity, the City Auditor shall:

- (1) Report on accuracy, quality and reliability of performance and cost information reported in the annual performance plan
- (2) Report on the status of and provide recommendations for the improvement on internal management issues, including controlling overtime expenditures, operating within appropriated levels, managing risk, reducing worker's compensation claims, and reducing errors and quality deficiencies.
- (3) Identify the major drivers of costs and recommend strategies for reducing those costs
- (4) Report on the status of implementation of any Competitive Restructuring Plans, as defined in section 311 of this Charter, and associated performance and cost achievements under those plans (**NOTE: Competitive Restructuring Plans is the term the Institute used for the BPR/Managed Competition process)
- (5) To the extent practical, compare cost and performance of San Diego City government with other cities, counties, public agencies and nonprofit organizations and businesses performing similar functions
- (6) Determine whether work or services performed by an audited department or agency might be practically performed under private contract at a lesser cost than work of a similar quality performed by employees of the City.
- (7) Report on any other criteria that the City Auditor may deem necessary to inform the Mayor, Council and the public on the performance and cost efficiency of a city department, board, commission or activity.

(e) Each year the City Auditor shall publish the results of all final performance audits and a summary of agency responses, shall deliver copies of such audits to the Mayor, City Council and relevant departments and make this information readily accessible to the public.

(f) Each performance audit report submitted to the City Council shall be docketed from an open session hearing of the City Council within thirty (30) days after submission, and the hearing shall not be continued for any reason except for an emergency as reasonably determined by the Mayor.

CHARTER REFORM

Independently Elected City Auditor

Section 320: Independent City Auditor

(a) The City Auditor shall be the Chief Fiscal Officer of the City. The City Auditor shall exercise supervision over all accounts, and accounts shall be kept showing the financial transactions of all Departments of the City upon forms prescribed by him and approved by the Council. He shall submit to the Council at least monthly a summary statement of revenues and expenses for the preceding accounting period, detailed as to appropriations and funds in such manner as to show the exact financial condition of the City and of each Department, Division and office thereof.

(b) The City Auditor shall perform the duties of a City Performance Auditor, responsible to the people of San Diego for monitoring the performance and efficiency of the government of the City of San Diego. The City Auditor shall establish and maintain a Performance Audit Unit in his office to ensure the City's financial integrity, and improve the overall performance and efficiency of City government.

(c) No contract, agreement, or other obligation for the expenditure of public funds shall be entered into by any officer of the City and no such contract shall be valid unless the City Auditor shall certify in writing that there has been made an appropriation to cover the expenditure and that there remains a sufficient balance to meet the demand thereof. He shall perform the duties imposed upon City Auditors by the laws of the State of California, and such other duties as may be imposed upon him by the Charter and ordinances of the City Council. He shall prepare and submit to the Mayor or City Council such information as shall be required for the preparation of an annual budget.

(d) Commencing with the year 2010, a City Auditor shall be elected by the people for a term of four (4) years. The municipal primary election for the office of City Auditor shall be held on the same date in each election year as the California State primary election, and the general municipal election for this office shall be held on the same date as the California State general election for that year.

(e) Notwithstanding any other provision of this Charter and commencing with the election held in 2010, no person may serve more than two consecutive four-year terms as City Auditor. If for any reason a person serves a partial term as City Auditor in excess of two years, that partial term shall be considered a full term for purposes of this term limit provision.

(f) The City Auditor shall supervise the departments, offices and functions of the City Auditor and Debt Management as identified in the Fiscal Year 2006 budget, and the successors to such offices and departments.

(g) The City Auditor shall serve on the Retirement Board of Administration in lieu of "the City management employee in the administrative service" specified in Section 144(f) of this Charter.

(h) The salary of the City Auditor and the budget for the Departments, offices and functions overseen by the City Auditor shall be fixed by the Council and set forth in the annual Appropriations ordinance. Should the Council not appropriate sufficient funds for the City Auditor to carry out the financial management and performance management functions outlined in this Charter, the City Auditor has the right to debit internal service fees from the appropriations accounts of City Departments for the performance of those services, provided that such fees do not exceed the actual costs to the City Auditor of providing these services. The City Council may reject or revise the City Auditor's imposition of internal management fees by a two-thirds vote of all of the members of the Council.

Section 321: Annual Evaluation of Internal Financial Controls

(a) On or before September 1 of every year, the City Auditor shall conduct an annual evaluation of the City's internal financial controls. In the course of that review, the City Auditor shall conduct a thorough review of the efficacy of the City's internal financial controls and their operation and meet with the City's independent auditors to review the design and operation of the City's internal financial controls.

(b) The City Auditor shall submit a written Annual Report of his findings to the City Council and the Audit Committee on or before January 1 of every year, and such Annual Report shall be docketed for an open session hearing of the City Council within thirty (30) days thereafter. Accompanying such Annual Report shall be a certification signed by the City Auditor, certifying that he:

(1) is responsible for establishing and maintaining the City's internal financial controls;

(2) has designed and enforced such internal financial controls to ensure that material information relating to the City and its departments, offices, agencies, and affiliated "related entities" as defined by law, is made known to the City Auditor by others within the City and its departments, offices, agencies, and affiliated "related entities," particularly during the period in which the Annual Report required by this section is being prepared;

(3) has evaluated the effectiveness of the City's internal financial controls as of a date within 90 days prior to the Annual Report;

(4) has presented in the Annual Report his conclusions about the effectiveness of his internal controls based on such evaluation as of that date;

(5) has disclosed to the City's independent auditors and the Audit Committee all significant deficiencies in the design or operation of internal controls that could adversely affect the City's ability to accurately and completely record, process, summarize, and report financial data;

(6) has identified for the City's independent auditors any material weaknesses in internal controls and any fraud, whether or not material, that involves management or other employees who have a significant role in the City's internal controls; and

(7) has indicated in the Annual Report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of his evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Section 322: Comprehensive Annual Financial Report and other Financial Disclosures

(a) On or before December 1 of each year, the City Auditor shall issue a Comprehensive Annual Financial Report [CAFR] for the City, provided that the City Auditor may issue the CAFR no later than 60 days after this date if necessary to assure its quality and accuracy. The CAFR shall conform to applicable federal, state and professional accounting standards governing such financial reports for local governments. The CAFR shall accurately and completely report on the overall financial health of the City, and account for the revenues, expenses, liabilities, and balances of all City accounts and funds for the fiscal year covered.

(b) In connection with the issuance of the CAFR, the City Auditor shall certify in writing that to the best of his knowledge, as of its date:

(1) the information contained in the CAFR fairly presents, in all material respects, the financial condition and results of operations of the City as of, and for, the periods presented in the CAFR; and

(2) the CAFR including all footnotes, does not make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

(c) In connection with offerings of securities of the City or "related entities" as defined by law, the City Auditor shall certify in writing that to the best of his knowledge, as of the date of the offering documents or other relevant disclosure materials, the information contained in those sections of such offering documents or disclosure materials for which the City Auditor is primarily responsible:

- (1) that the information fairly presents, in all material respects, the financial condition and results of operations of the City;
- (2) that the information, including all footnotes, does not make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and
- (3) that the financial statements and other financial information from the CAFR included in such offering documents or disclosure materials fairly present in all material respects the financial condition and results of operations of the City as of, and for, the periods presented in the CAFR.

No offering of securities of the City shall be made without first receiving the City Auditor's certification as required by this Charter.

(d) Immediately upon completion of the City's Comprehensive Annual Financial Report [CAFR] the City Auditor shall submit that report to the City Council, and such report shall be docketed from an open session hearing of the City Council within thirty (30) days thereafter, and the hearing shall not be continued for any reason except for an emergency as reasonably determined by the Mayor.

Section 323: Audit Committee

(a) There is hereby created a Audit Committee consisting of five members of the public. The members shall be appointed by the City Auditor and confirmed by the City Council. Each of the members shall be a person of high moral character and integrity with extensive academic or professional experience in the fields of finance, accounting, or law, with at least one expert in accounting and at least one expert in federal securities law. The members shall not be members of related entities as defined by law or any other board or commission of the City of San Diego.

(b) The members shall serve terms of four years and each member shall serve until a successor is duly appointed and confirmed. No later than 60 days after the effective date of this Article, the Mayor and the Council shall make interim appointments to the Committee. These interim appointments shall be replaced no later than March 1, 2011 by appointment by the elected City Auditor and confirmation by the Council.

(1) Of the members appointed by the City Auditor initially, two members shall serve a term of two years, and three members shall serve a term of four years. The expiration date of all terms shall be March 1. During March of each year, the City Auditor may designate one member as Chairperson; however, in the absence of such designation, the Committee shall on or after April 15, select a Chairperson from among its members.

(2) Any vacancy shall be filled for the unexpired term of the member whose place becomes vacant. If any member misses three meetings in a calendar year without

being excused by the City Auditor, that member's Committee position shall be deemed immediately vacated without further action by the Committee or the City Council. The Committee shall have no authority to restore such member to a position deemed vacated. Absences may be excused by unanimous vote of the remaining members of the Committee.

(c) The Audit Committee shall:

- (1) Adopt rules consistent with the law for the government of its business and procedures, provided that such rules shall specify that a quorum shall at all times consist of at least two members;
- (2) Meet periodically but no less than every three (3) months, and in separate meetings with the City Auditor, the City's outside audit firm, and the representatives of other bodies to be designated by ordinance. The Committee's meetings shall be subject to state open meetings laws applicable to local legislative bodies.
- (3) Establish procedures to receive and respond to any complaints or concerns regarding accounting, internal controls, or auditing matters, including procedures for the confidential and anonymous submission by employees of any such complaints or concerns.
- (4) Review and evaluate the annual report on the City Auditor's evaluation of internal controls and the Consolidated Annual Financial Report and provide to the Mayor, City Council and City Auditor any comments or recommendations it may have on those documents.
- (5) Review and evaluate the procedures, diligence, ability, and work product of the outside auditor and report annually to Mayor, City Council and City Auditor on its findings and any recommendations it may have.
- (6) Review and evaluate the City's exercise of its obligations under federal and state securities laws with respect to securities issued by the related entities as defined by law, and provide to the Mayor, City Council and City Auditor any comments or recommendations it may have.
- (7) Conduct such other studies, reviews, and public hearings on matters relating to or connected with the City's financings, disclosures, audits, and internal financial controls and procedures as it shall be directed by the City Auditor or requested by Mayor or City Council, and report on its findings, together with such recommendations as the Board shall deem appropriate, to the Mayor, City Council and City Auditor.

(d) The City Attorney, the City Auditor, and the all other City officers and employees shall fully cooperate with the Audit Committee and provide such assistance and resources

as are reasonably necessary to allow it to carry out its responsibilities. In the City's Annual Budget, in addition to budgeting sufficient internal staff resources, the City Auditor shall propose an expenditure of funds sufficient to engage such independent counsel or other independent advisers to assist the Committee in carrying out its responsibilities as the Committee shall reasonably request. The City Council shall appropriate monies as proposed by the City Auditor sufficient to meet these needs.

Section 325: Selection of Independent Auditors

(a) In selecting an independent auditor for the City, the City Auditor shall consult with the Audit Committee regarding its recommendations relating to appropriate expertise, experience, responsibility, and other factors on which candidates will be solicited and evaluated.

(b) The Audit Committee shall review and evaluate all proposals received for the independent auditor to the City, and shall recommend three candidates to the City Auditor. The City Auditor shall select one of these candidates to serve as the independent auditor.

(1) The City Council may approve or reject the City Auditor's selection, but the City Council shall not substitute a candidate of its own choice.

(2) In the event that the City Council rejects the recommendation of the City Auditor, he shall select another candidate recommended by the Audit Committee, or, in his sole discretion, provide for the issuance of a new Request for Proposals to encourage additional candidates to submit proposals.

CHARTER REFORM

Integrity Audits for Special and Enterprise Funds

Section 330. Audit of Functions Supported by Fees.

(a) The City Auditor shall audit the enterprise and special funds and all other accounts established for each program, benefit, and service of the City supported by fees to ensure that the amount of such fees for each specific program, benefit, or service does not exceed the actual cost to the City of providing the specific program, benefit, or service directly to the fee payers. In making this determination, the City Auditor shall

(1) Identify City employees that are subsidized in whole or in part by fees to ensure that the portion of each City's employee's compensation is directly and materially related to actual job work performed by them in providing the specific program, benefit, or service supported by such fees.

(2) Review charges by the General Fund to a fee-supported account to:

(A) identify the full amount of funds transferred into the General Fund for each kind of support service

(B) verify that the charges incurred by fee-supported accounts are consistent with the full cost of service incurred by the General Fund

(C) compare the charges incurred by the fee-supported account with prevailing market rates charged for similar services.

(c) The City Auditor shall perform this audit in a manner that ensures that all enterprise and special funds and all other accounts established for each such program, benefit and service activity is audited no less frequently than once every three years. The City Auditor shall publish the results of his audits annually.

(d) If the City Auditor determines for any audit period that the amount of fees collected to support an enterprise, special funds or any other account established for each such program, benefit and service has exceeded the actual cost to the City of providing the specific program, benefit, or service directly to the fee payers, the City Auditor shall cause the general fund to reimburse the affected special fund for the total amount of the excess fees collected.

(e) If the amount of excess fees collected exceeds ten percent of the total amount of the fees collected for that special fund or account for the audit period, the City Auditor shall take reasonable steps, including but not limited to future offsets, to reimburse such overpayments to payers of the fee.